

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 2216 of 1983

For Approval and Signature:

Hon'ble MR.JUSTICE J.M.PANCHAL

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1. Whether Reporters of Local Papers may be allowed : NO
to see the judgements?
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
 4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the Civil Judge? : NO

V.I. BAROT

Versus

STATE OF GUJARAT

Appearance:

MR PM RAVAL for Petitioners

MS MANISHA L. SHAH, AGP instructed by M/S A & D
for Respondents

CORAM : MR.JUSTICE J.M.PANCHAL

Date of decision: 24/03/2000

ORAL JUDGEMENT

By means of filing this petition under Article
226 of the Constitution, the grievance made by the
petitioners on behalf of the members of the Gujarat State
Police Inspectors' Association is that while effecting

promotion to the posts of Deputy Superintendent of Police in the mofussil and Superintendent of Police (in Ahmedabad City), Assistant Superintendent of Police should not be treated as persons belonging to lower rank of the Gujarat Police Force so as to affect the chances of promotion of those persons belonging to lower rank of Gujarat Police Force.

2. The recruitment to the post of Deputy Superintendent of Police is governed by the provisions contained in the Recruitment Rules of Deputy Superintendent of Police framed under Government Notification No. GG-212-DYS-1075-B, dated August 30, 1977. According to the rules, appointment to the said post can be made either by direct selection or by promotion of persons of proved merit and efficiency from the lower rank of the Gujarat Police Force. The appointment by direct selection and by promotion has to be made in the ratio of 1:2 out of the total cadre strength. The case of the petitioners is that so far as direct recruits are concerned, they are first posted as Assistant Superintendents of Police and, therefore, they should not be considered as persons belonging to the lower rank of Gujarat Police Force who are entitled to be promoted to the posts of Deputy Superintendents of Police. The petitioners have averred that the total number of posts of Deputy Superintendent of Police in the State are 120, out of which, 1/3rd posts are reserved for direct recruits; whereas 2/3rd posts are available to the promotees and if the respondents are permitted to treat the Assistant Superintendent of Police as belonging to lower rank of Gujarat Police Force, chances of promotion of other officers of Gujarat Police Force would be adversely affected and, therefore, the respondents should be restrained from making appointment to the posts of Deputy Superintendent of Police by way of promoting Assistant Superintendents of Police. What is claimed by the petitioners is that Assistant Superintendents of Police belong to Indian Police Service and, therefore, they cannot be treated as officers from the lower rank of Gujarat Police Force while effecting promotion to the post of Deputy Superintendent of Police. The petitioners have pleaded that Rule 46 of the Rules which enables the competent authority to treat Assistant Superintendent of Police as belonging to the lower rank of Gujarat Police Force is illegal and, therefore, the same should be struck down. Under the circumstances, the petitioners have filed present petition and claimed different reliefs which are enumerated in Para-15 of the petition.

3. Mr. C.B.Trivedi, Under Secretary to Government

of Gujarat, Home Department, Gandhinagar has filed reply affidavit controverting the averments made in the petition. In the reply, it is stated that Special Civil Application No. 382 of 1975 which involved similar points, has been dismissed by the High Court and, therefore, the present petition should not be accepted. It is further mentioned in the reply that the ratio of 1:2 as mentioned in Rule-46 is to be calculated on the total cadre strength minus the number of junior scale posts included in the Indian Police Service Cadre and, therefore, the plea of the petitioners that Assistant Superintendents of Police encroach upon the posts of Deputy Superintendent of Police being not tenable, should be rejected. What is maintained by the respondents in the reply is that the action of the respondents to promote the Assistant Superintendents of Police on the post of Deputy Superintendent of Police is neither illegal nor arbitrary and, therefore, the prayers made in the petition should not be granted.

4. I have heard the learned Counsel for the parties and taken into consideration the different provisions which govern the appointment to the post of Deputy Superintendent of Police. Rule-46 governs appointment to the post of Deputy Superintendent of Police and provides that the appointment to the said post can be made either by direct selection or by promotion of persons of proved merit and efficiency from the lower rank of the Gujarat Police Force. The appointment by direct selection and by promotion has to be made in the ratio of 1 : 2 out of the total cadre strength. To be eligible for appointment by direct selection, a candidate is required to pass competitive examination and has to fulfill other requirements stipulated in the said rule. As far as appointment by promotion to the post of Deputy Superintendent of Police is concerned, it is specifically provided that promotion shall be made from the lower rank by the Government by selection in accordance with the principles and procedure as detailed in Appendix-III. The submission that direct recruit posted as Assistant Superintendent of Police cannot be treated as belonging to Gujarat Police Force, has no merits. As is indicated in the reply affidavit, Assistant Superintendents of Police are placed in charge of the sub-divisions for about two years or so before they are promoted to the senior time scale and they are not recruited principally for manning the sub-divisional posts. Moreover, the ratio of 1 : 2 as mentioned in Rule-46 is to be calculated on the total cadre strength minus the number of junior scale posts included in the Indian Police Service Cadre. In view of the recruitment rules of

Deputy Superintendent of Police framed by the Government, it cannot be said that consideration of the Assistant Superintendents of Police as belonging to Gujarat Police Force for the purpose of promotion to the posts of Deputy Superintendent of Police is in any manner either illegal or arbitrary. It may be stated that this is a promotion policy adopted by the State Government for the purpose of effecting promotion to the post of Deputy Superintendent of Police. The policy is neither shown to be illegal nor arbitrary, nor unreasonable in any manner so as to warrant the interference of the Court in the present petition. The quota of direct recruits and promotees was fixed vide Government Notification, Home Department No. GG/72/267/DYS/1091/EST-B, dated December 26, 1972 as well as Government Notification of the Home Department dated August 30, 1977. As such there is no question of refixing the quota of direct recruits and promotees. Moreover, this question is squarely covered by the decision of the High Court rendered in Special Civil Application No.382/75, wherein similar challenge to Rule-46 was negatived. Under the circumstances, present petition cannot be accepted and is liable to be dismissed.

For the foregoing reasons, the petition fails and is dismissed. Rule is discharged, with no order as to costs.

(J.M.Panchal,J.)

(patel)